

From: [Tulis, Dana](#)
To: [Stanislaus, Mathy](#); [Stanton, Larry](#); [Breen, Barry](#)
Cc: [Jennings, Kim](#); [Matthiessen, Craig](#)
Subject: RE: Elk River, West Fertilizer and the EO Work Group
Date: Friday, January 17, 2014 2:29:53 PM

Adding in Craig, since Larry is CWD today.

An expansion of SPCC to haz substances could happen, but of course, that wouldn't have helped the Elk River situation. Craig, do you have a concept of how resource intensive that would be, as well as effective and operational. Thanks.

From: Stanislaus, Mathy
Sent: Friday, January 17, 2014 2:20 PM
To: Stanton, Larry; Breen, Barry
Cc: Tulis, Dana; Jennings, Kim
Subject: Re: Elk River, West Fertilizer and the EO Work Group

Thanks appreciate your thoughts. Can you expand on your comment about obvious solutions?

Would an expansion of SPCC to include haz substances (along with expanding that list) be workable from an effectiveness/ operational perspective.

From: Stanton, Larry
Sent: Wednesday, January 15, 2014 10:36:55 AM
To: Stanislaus, Mathy; Breen, Barry
Cc: Tulis, Dana; Jennings, Kim
Subject: Elk River, West Fertilizer and the EO Work Group

Mathy –

As I see it, the Elk River Spill is directly related to the work of the EO Group, and so certain elements of the event should be incorporated into our work. Further, I believe that these issues do not involve additional work on the part of the WG or the sub groups. Rather, it is more a matter of messaging.

Issues:

Regulations governing the facility

The Freedom Industries facility appears to have been essentially unregulated, at least at the federal level, for anything other than worker safety and EPCRA. I suggest it would (and apparently has) come as a surprise to the average American that a chemical tank farm next to a significant river would be unregulated for matters of spill control and prevention.

[REDACTED]

Our challenge is that the “obvious” solutions are not solutions at all, and would only exacerbate the problems we already face. Instead, the solution to this issue must be carefully thought out, and be participatory. We have already begun that process within the EO Work Group.

State involvement in regulation and oversight

As was the [REDACTED], the level of state engagement is coming under intense scrutiny. And again, [REDACTED], the federal government is in a tricky position, with little ability to press change on state governments, and few resources to offer as incentive to change. Accordingly, we are in the same position relative to WV as we have been relative to TX, we need to find ways to influence and lead the state authorities without establishing mandates that we can neither fund nor enforce. Again, with the R2 pilot, we are well along the path of developing

those methods and mechanisms, and the results of that work can and should inform our engagement with WV going forward.

Emergency Planning

Without getting too far in front of the investigation, there appears to have been multiple failures in terms of emergency planning and emergency response. There are serious questions that need to be asked about the Freedom Industries management of their operations and their initial response to the leak. The water treatment facility seems to have had no plan for an excursion of a chemical that was stored less than a mile from their intakes. The county/state appears to have had no effective mechanism for notification to the community or a local contingency plan in place to address the risk at this facility. All of these issues underscore the critical importance of a well-functioning LEPC system, with real oversight by the state. That, of course, was and is the central issue in the West situation as well. Again, the work of the EO group is aimed at these issues, and the results of that effort are directly applicable to the Elk River Spill.

Recommendation:

I suggest that this matter be raised to the Tri-Chair group this week, with a recommendation that the involved federal agencies release a statement along the lines of what I've set out here. The EO Group will, as it completes its work, recommend a number of regulatory and non-regulatory (best practices) changes that will address gaps in oversight, emergency planning, inter agency coordination, and federal/state/local partnership.

V/R

Larry